IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Revision No.1211 of 2006.
Date of Decision: September 11, 2006.

Jaswant Singh

....**Petitioner**

**through**
**Mr. Anupam Bhardwaj, Advocate**

Versus

Sukhwinder Singh & Anr.

...**Respondents**

**through**
**Mr. Paramjit Singh Jammu, Advocate.**

**CORAM:**

**HON'BLE MR. JUSTICE SURYA KANT.**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

**SURYA KANT,J.(ORAL)**

This revision petition has been filed against the order dated 23rd January, 2006 passed by learned Civil Judge (Junior Division), Amritsar whereby the application under Order 14 Rule 5 of the Code of Civil Procedure moved by the petitioner for framing of the additional issues has been dismissed on the ground that the issues which are already settled "are sufficient for the purpose of deciding the suit and framing of additional issues is not necessary".

Notice of motion was issued and in response thereto, the defendant-respondents have put in appearance.

I have heard learned counsel for the parties at length.

The undisputed facts are that the petitioner has filed a suit for declaration to the effect that the sale deed dated 1st June, 1995 allegedly executed by him in favour of the defendant-respondents in respect of the subject land is illegal, unlawful, null and void and is liable to be set aside as it was executed by an insane person under force, coercion, undue influence, duress and fraud. The petitioner has also sought consequential relief of permanent injunction to restrain the defendant/respondents from dispossessing him from the subject land.

On the basis of the pleadings of the parties, learned trial Court has framed the following issues:-

> "1. Whether the plaintiff is entitled to declaration as prayed for?OPP
> 2. Whether the plaintiff is entitled to injunction as prayed for?OPP
> 3.Whether the plaintiff has no locus standi to file the present suit?OPD.
> 4. Whether the suit is not maintainable?OPD
> 5. Whether the plaintiff is estopped by his own act and conduct from filing of the present suit?OPD.
> 6. Relief".

The petitioner, however, moved an application under Order 14 Rule 5 C.P.C. for framing the following two additional issue:-

> "1. Whether the plaintiff is in possession of the suit property. If so, to what effect?OPP
> 2. Whether the plaintiff is a insane person of unsound mind. If so, to what effect?OPP".

As may be noticed from Issue No.1 which has already been framed by the learned trial Court and in terms whereof the fate of the declaration sought by the petitioner is to be decided, is exhaustive enough to

include the "2nd issue" which the petitioner wants to be framed, namely, as to whether he is "insane person of unsound mind" or not. To be more precise, the petitioner would be at liberty to prove himself to be an insane person of unsound mind so as to seek the 'declaration' as prayed for in the suit.

Similarly, Issue No.2 already framed by the learned trial Court, namely, whether the petitioner is entitled to injunction as prayed for or not, covers his 1st proposed issue, i.e., whether the petitioner is in possession of the subject property or not. It is only when the petitioner is found to be in possession of the subject land that the injunction can be granted in his favour.

In view of the above discussion, it appears that the learned trial Court has rightly declined the petitioner's application inasmuch as the additional issues sought to be framed by him are already covered by the existing issues settled between the parties. Consequently, I do not find any merit in this petition and dispose of the same with the clarifications aforementioned.

The parties are left to bear their own costs.

September 11, 2006. **( SURYA KANT )**
**dinesh** **JUDGE**